

### APPENDIX J

Examples relating to Organizational Conflict of Interest (OCI) from other states and the federal government.

- State of **Maryland** Public Ethics Law § 15-508. Submission of bid; ineligible persons:
  - (a) An individual or a person that employs an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or request for proposals may not:
    - (1) Submit a bid or proposal for that procurement; or
    - (2) Assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement.
  - (b) For purposes of subsection (a) of this section, assisting in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement does not include:
    - (1) Providing descriptive literature such as catalogue sheets, brochures, technical data sheets, or standard specification "samples", whether requested by an executive agency or provided on an unsolicited basis;
    - (2) Submitting written comments on a specification prepared by an agency or on a solicitation for a bid or proposal when comments are solicited from two or more persons as part of a request for information or a prebid or preproposal process;
    - (3) Providing specifications for a sole source procurement made in accordance with § 13-107 of the State Finance and Procurement Article;
    - (4) Providing architectural and engineering services for programming, master planning, or other project planning services; or
    - (5) Providing specifications for an unsolicited proposal procurement made in accordance with § 13-107.1 of the State Finance and Procurement Article.
- Code of **Mississippi** Rules 09000001 - 9.209 Contractor/Consultant Conflict of Interest  
It is the policy of the State of Mississippi to identify, avoid or mitigate conflicts of interest in contracting with independent contractors and consultants for services related to the subsequent competitive acquisition of commodities as defined in Section 31-7-1 (e) Mississippi Code of 1972, Annotated.  
The underlying principles of this policy are:
  - (a) preventing the existence of conflicting roles that may bias a contractor's or consultant's judgment in its work for the State; and
  - (b) preventing unfair competitive advantage.An independent contractor or consultant hired by any state agency for the purpose of preparing or furnishing complete or essentially complete specifications which are to be used in competitive acquisition for the furnishing of the same services or equipment shall not:
  - (a) be awarded a contract in the subsequent competitive acquisition of commodities; or
  - (b) be a subcontractor or consultant to a bidder participating in the competitive acquisition of the same

- **Colorado Regulations 600 - SECTION 7 - CONFLICT OF INTEREST**
  1. CDOT will award a Design-Build Contract only to a Firm that does not have impaired objectivity or an unfair competitive advantage, due to any interest of the Firm that creates an actual conflict or a significant potential conflict with the proposed contract.
  2. Except as provided below, any consultant shall be disqualified from submitting a proposal on a Project, or from acting as a subconsultant or subcontractor on a Project, if CDOT determines that the consultant has such a conflict, including in the following situations:
    - a) it develops the Scope of Work for a Design-Build Project; or,
    - b) it develops the RFQ or RFP for the Project; or,
    - c) it performs 20% or more of the Preliminary Engineering on the Project.
  3. Any consultant that is so disqualified may still be part of any CDOT oversight team for the Project, if CDOT deems it appropriate.
- **New York State Law Chapter 56, Article 9 § 163-a. Vendor preparation of specifications for technology procurements; prohibitions**

If a vendor prepares and furnishes specifications for a state agency technology procurement proposal, to be used in a competitive acquisition, such vendor shall not be permitted to bid on such procurement, either as a prime vendor or as a subcontractor.
- **Contracts for evaluation of offers for products or services shall not be awarded to a vendor that would then evaluate its own offers for products or services. Such restrictions shall not apply where:**
  1. The vendor is the sole source or single source of the product or service;
  2. More than one vendor has been involved in preparing the specifications for a procurement proposal;
  3. A vendor has furnished at government request specifications or information regarding a product or service they provide, but such vendor has not been directly requested to write specifications for such product or service or an agency technology procurement proposal; or
  4. The state agency together with the office for technology determines that the restriction is not in the best interest of the state. Such office shall notify each member of the advisory council established in article ten-a of the executive law of any such waiver of these restrictions.
- **The Federal Acquisition Regulations:**

[http://www.arnet.gov/far/current/html/Subpart\\_9\\_5.html#1049089](http://www.arnet.gov/far/current/html/Subpart_9_5.html#1049089)